SIKKIM
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DEPARTMENT OF TOURISM
GOVERNMENT OF SIKKIM

No 02/TD **Dated: 20.04.07**

N O T I F I C A T I O N

Whereas a draft of certain rules was published as required by sub-section (1) of section 18 of the Sikkim Casino Games (Control and Tax) Act, 2002 (4 of 2002) dated 04.04.2006 in the Sikkim Government Gazette, Extraordinary no. 112 dated the 25th April, 2006 inviting objection and suggestion from all persons likely to be affected hereby before the expiry of 45 (forty five) days from the date of publication of the Official Gazette.

And whereas, no objection or suggestion were received within the said period of 45 (forty five) days;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 18 of the Sikkim Casino Games (Control and Tax) Act, 2002 (4 of 2002) the State Government hereby makes the following rules, namely:-

Short title and commencement

1. (1) These rules may be called the Sikkim Casino Games (Control and Tax) Rules, 2007.

(2) They shall come into force on the date of their publication in the Official Gazette.

Definitions

2. In these rules; unless the context otherwise requires:-

(a). **"Act"** means the Sikkim Casino Games (Control and Tax) Act, 2002;
(b). **"Appellate Authority"** means the State Government or such authority as may be appointed by the State Government;
(c). **"Authorized Officer"** means any person or persons appointed by the State Government for the purpose of the Act;
(d). **"bailable offence"** means an offence which is shown as bailable in the first Schedule of Code of Criminal Procedure, 1973;
(e). **"Casino Games"** means all or any games of chance in which chance rather than skill determines the outcome;
(f). **"cognizable offence"** means an offence which is shown as cognizable in the first Schedule of Code of Criminal Procedure, 1973;
(g). **"Company"** means a body corporate registered under the provisions of the Registration of the Companies Act, Sikkim 1961; and includes a firm or other association of individuals duly constituted.
(h). "**Department**" means the Department of Tourism, Government of Sikkim;

(i). **"Government"** means the State Government of Sikkim.

(j). **"instruments of gaming"** means and includes any article used or intended to be used as a subject, an accessory or means of gaming, any document used or intended to be used as a register or record or evidence of gaming, the proceeds of any gaming, and any winnings or prizes in money or otherwise distributed or intended to be distributed in respect of any gaming;

(k). **"license"** means a license granted by the State Government under the provisions of the Act for the purpose of running Casino Games;

(l). **"licensee"** means any person/Company/Firm who has been granted a license to install and operate Casino Games;

(m). **"licensed premises"** shall mean and include a hotel having infrastructural and other facilities of the standard of any 5 star hotel with capability to establish and operate casinos games;

(n) **"penalty"** means a fine imposed by the State Government or any authority for the breach or contravention of any of the rules made hereunder and on conviction before a court of competent jurisdiction.

CHAPTER-II

Application for license for Casino Games

3. Any interested person/Company/Firms desiring to obtain license to operate Casino Games may apply for issue of license in Form-A.

Grant of refusal of license

4. On receipt of such application, the State Government or such officer as may be authorized in this behalf, may after making such enquiry as may be considered necessary, by order in writing, either grant the provisional license for five years or refuse to grant the license without assigning any reason or reasons.

Renewal of License

5. On expiry of the term of license issued under the Act, the license holder shall apply for the renewal of such license in Form-A and on receipt of such application for renewal the State Government may at its discretion grant or refuse to renew such license for reasons to be recorded in writing.

Suspension or Cancellation of License

6. (1) The State Government may at any time after giving a reasonable opportunity of being heard or after giving show-cause notice of at least one month before in Form-'C', suspend or cancel the license on breach of one or more of the terms and conditionsprescribed in the license or for contravention of any of the provisions of the Act, and for such suspension or cancellation of the license the concerned authority shall record brief reasons for the action taken.

(2) On suspension or cancellation of the license, the concerned authority shall furnish copy of the order of suspension or cancellation containing the reasons thereof to the concerned person/ Company/ Firm whose license has been suspended or cancelled.

Recovery of fine

7. All fines imposed under the Act may be recovered in the manner specified by section 421 of the Code of Criminal Procedure, 1973.

Power of Inspection of the Premises

8. (1)The Authorized Officer or his authorized person in writing shall have the power of inspection of the premises without any search warrant from the Magistrate or court of law before issuance of the certificate of registration and entry in the register for his satisfaction at any convenient and reasonable time.

(2)The Authorized Officer shall have also the power of inspection in the premises if the complaint is received in writing for involvement of any offence defined under the Act without search warrant.

Power of Seizure and impose fine

9. (1) During the inspection of the premises of any Casinos, Authorized Officer or any of the authorized person not below the rank of Under Secretary shall enter upon the premises and seize any articles or any materials of offence as materials of evidence for subsequent trial and if the Authorized Officer or authorized person has found that there is any contravention and violation of any of the provision of these rule, he shall impose the fine thereof as per the prescribed rate provided under the Act.

(2) The Authorized Officer shall keep the seized articles in safe custody or he shall forward to the police for the next course of action as the case may be:

Provided that if no application is presented, claiming the rightful ownership of the seized article under sub-rule (1), for recovery of possession of such article within three (3) months from the date of seizure, the ownership of such article shall vest with the Government. The amount so collected shall be credited in the exchequer of the Government after duly conducting the public auction.

Supply of seizure Memo

10. After the seizure of the seized articles, a copy of the seizure memo should be supplied from whom the article was seized in Form-'E'.

Power of cognizance

11. No cognizance shall be taken unless complaint is received or filed by any persons against the offenders before the Authorized Officer, and he shall have the power to take cognizance on suo-moto the Authorized Officer has reasonable belief about the offence or of contravention of any provision of the Act.

Power of fixing the rates

12. The Authorized Officer, may, by Notification in the Official Gazette, fix reasonable/ maximum rates as the Government approves from time to time.

Appeal against order of the Authorized Officer

13. (1)Subject to the provision of Section 4 and 6 an appeal shall lie from every order of the Authorized Officer under the Act to the Appellate Authority to be appointed by the Government.

(2) Every such appeal shall be preferred within 60 (sixty) days from the date of communication of the order:

(3) The appellant shall have a right to appear through a counsel and the Authorized Officer and Department may be represented by such officer or person or a counsel as the Government may appoint.

(4) On the receipt of any such appeal, the Appellate Authority shall give the appellant and respondent a reasonable opportunity of being heard and after making such enquiry as it deems proper, dispose off the appeal for reason to be recorded.

(5) The proceeding before the Appellate Authority shall be completed within four months of its institution.

Power of the Authorized Officer and Appellate Authority.

14. The Authorized Officer and Appellate Authority shall have the powers of a Civil Court under the Code of Civil Procedure 1908 (5 of 1908) in respect of the following matters, namely:-

(1). summoning and enforcing of attendance of the complaint made under this Act and witness required in connection therewith;

(2). compelling the production of any document and materials Exhibits.
(3). examining witnesses on oath; and

(4). summoning and examining suo-moto of any person whose evidence appears to be material.

Explanation: For the purpose of enforcing the attendance of witnesses and other persons mentioned above, the local limits of the jurisdiction of the prescribed authority extends to the whole of the state.

Offence and Penalties

15. If any person is found carrying on the business in contravention of any provision of the Act and these rules, the license shall summarily be cancelled and penal action shall be initiated against him under the provision of the Act.

Production of No Objection Certificate/License

16. Any person, desiring to obtain license under Section 4 of the Act, shall produce the No Objection Certificate from the, Health Department (Promotion of Food Adulteration), Energy and Power Department and Directorate of Fire Services.

Issuance of the License

17. (1) Any person intending to carry out the business of casino by any dealers, hotel-keepers, under these rules shall obtain the license, as per the procedure for obtaining license has been detailed below.

(2) On receipt of an application in the prescribed form and subject to the provision of these rules license may be issued in FORM – 'B' for operating of Casino and Casino Games, in a hotel having infrastructural and other facilities of the standard of any 5 (five) star hotel with capability to establish and operate casinos games.

License Fee

18. The fee in respect of trade license for operating Casino Games under these rules, shall be Rs. 5,000/- (rupees five thousand) along with the prescribed application made under these rules.

Procedure for institution of proceeding

19. A person shall be liable for the proceeding if he/she defaults for payment of fine imposed by the Authorized Officer and or for any contravention of any of the provision under the Act and rules. The Authorized Officer or his authorized person may also proceed with the institution of the provision of Criminal Procedural Code, 1973 and/or may file complaint before the Police station for registration of the criminal case against the offender.

Place to hold the enquiry

20. The Authorized Officer or his authorized person may hold an enquiry under the Act at the place of his official Headquarter or at the place where the offence was detected/ occurred.

Period for Payment of fine

21. The fine imposed by the Authorized Officer shall be payable within a period of one month failing which the fine may be realized in the manner provided under the Code of Criminal Procedure, 1973 for levy of fines.

Power of Court to try the cases summarily

22. No Court shall entertain any complaint and take cognizance of any offence unless a written complaint is filed by Authorized Officer or his authorized person or police not below the rank of Police Inspector before a Judicial Magistrate of First Class.

Power of Authorized Officer

23. The Authorized Officer or his authorized person shall have the same power as that of the police in respect of conducting enquiries with regard to any offence under the Act.

Forfeiture of Property

24. Where any person is convicted or fined for contravention of any provision of these rules such articles, items, shall be forfeited to the Government.

Confiscation of property

25. Notwithstanding anything contained in the other provision of the Act and rules the authorized officer, where any violation or contravention of any provisions of the Act is believed to have been committed, such authorized officer may, whether or not prosecution is instituted for commission of such offence, order confiscation of property so seized from the premises of the license.

Issue of showcause notice

26. No order of confiscation of any property under rules 25 shall be made except after serving a notice in writing to the person or licensee from whom it is seized and reasonable opportunity of hearing is given, if any.

Notice to be sent by the Registered post

27. All notices or Orders issued under the foregoing rules, shall be sent by registered post to the person registered under the Act as shown in the application form and shall such notices or Orders, as the case may be shall be deemed to have been validly communicated when the notice is duly received by the addressee.

Maintenance of registered and account book and other relevant documents

28. (1) Every licensee shall maintain the register and other account books and statement of every day with the following information, duly painted, namely:-

(i) Name of licensee .....
(ii) Location
(iii) Name of the Hotel Keeper, premises/building etc who run the business of casino.
(iv) Name of the participants
(v) Address of the participants
(vi) No. of participants
(vii) No. of stakes taken
(viii) Total amount

(2) Assessment of tax

(3) Every licensee shall maintain the following books and registers, approved by the Authorized Officer, namely:-
(i) Complaint/suggestion book to be kept at the reception counter.
(ii) Participants/visitor register in the form at Annexure 'D'.
(iii) Bill book duly numbered in duplicate; and
(iv) Receipt book duly numbered in duplicate for receipt of payments/advance.

(4) The license shall not allow the entry of the participants/ guest/tourist in the hotel room unless his particulars are entered in the guest registration register.

(5) The licensee also shall not allow entry of the participants/guests/tourists under the age of 18 years or employ in the casino or otherwise allow to take part in the organization or exhibition of such casino game.

(6) Individual admission fee of Rs. 1500/- (Rupees fifteen hundred) only shall be charged by the licensee to participants/guests/tourists for entry in the casino.

(7) The casino centre may be kept open 24 hours of the day.

(8) "licensed premises" shall mean and include a hotel having infrastructural and other facilities of the standard of any 5 star hotel with capability to establish and operate casinos games;

(9) The licensee may exhibit and advertise such casino centre by means of common hoardings / newspaper advertisement / pamphlets/brochures/ magazine advertisements/ audio visual advertisements, in or outside the licensed premises.

(10) License may decide at his own discretion whatever may deem fit for his business to extend credit facilities to the participants of casino and casino games.

Repeal and Saving

29. The Government, if it deems fit expedient and necessary to do so, may by Notification, to be published in the Official Gazette make amendments/repeals to the provisions of these rules.

Colour passport size photograph of the applicant, 2 copies

Form-A
TOURISM DEPARTMENT
GOVERNMENT OF SIKKIM
APPLICATION FORM FOR LICENSE AND RENEWAL LICENSE OF CASINO AND CASINO GAMES

To,

Date .....

The Secretary,
Tourism Department,
Government of Sikkim
Gangtok – 737101

Location ..... District .....

Sir,

I/We behalf of M/s ..... request you to grant license to operate Casino and Casino Games, under Rule 3 and 17 of Sikkim Casinos Game (Control and Tax) Rule, 2007.

1. Name of the applicant/applicants:

2. Name of the firm/company with registration No. represented by them:

3. Age of the applicant/applicants:

4. Residential Address:
   House No./Street/Locality

5. P.L/P.S/District:

6. Address/description and name of establishment where Casino and Casino Games setup is proposed:

7. Whether the application is of grant of fresh license or renewal? If renewal previous license number and date of expiry pf the said license:

8. Whether the relevant, fee/tax under any statutory law for the previous period has been cleared and if so, the total amount paid:

(Enclose a copy of the challan under which the amount has been paid):

10. Further particulars is any:

(Signature of Applicant)

(Applicant may use a separate page if required to state all details required, as enclosure to this form).

ACKNOWLEDGEMENT

1. Name of the Applicant .....

2. Fee receipt number .....

3. Date of receipt of applicant .....

Signature of Official
(Seal of Office)

Form 'B'
(See Rule 17)
License for installation of Casino Games

No..... District .....

This is to certify that Shri/Messers ..... of ..... Has been authorized and granted a License for installation of Games of Casino on the terms and conditions as prescribed vide Government Notification No ..... dated ..... with effect from ..... to .....

This License shall be subject to condition as specified hereunder and as prescribed under the Government Notification in terms of section 3, 4, and 9 of Sikkim Casino Games (Control and Tax) Act, 2002.

1). The License shall operate the casino games only in the premises where the license is granted.

2). The Licensee shall ensure that no inconvenience/disturbance is caused to the other occupants staying in the premises/vicinity of the premises where the games machines will be operated.

3). The Licensee shall be responsible for providing appropriate facilities to the customers.

4). The License shall pay the requisite fee/tax under any statutory law to the Government before the end of the year and before an application is made for renewal of this License.

5). The License shall extend co-operation to the Authority and to any Officer authorized by the Government for carrying out inspection of the premises and records maintained by him.

6). In case of any contravention of terms and conditions, of the license or none-cooperation to the Authority or to any Officer authorized by the Government, the license shall be liable for cancellation.

7). The Licensee shall also observe/term and conditions as prescribed under section 3, 5 and 9 of Sikkim Casino Games (Control and Tax) Act 2002, vide Government Notification No ..... dated .....

Dated:

Place:

Signature of the Authorized Officer
and Official Seal.

Form 'C'
(See rule 6)
DEPARTMENT OF TOURISM

NOTICE FOR CANCELLATION OF REGISTRATION AND LICENSE

No ..... Dated .....

To,

_____

_____

Registration /License No. _____

Whereas your license is liable to be cancelled under section ..... of the Sikkim Casinos Games (Control and Tax) Act, 2002, on the following grounds:-

1.

2.

3.

Now, therefore, a notice is hereby given to show cause within a period of 15 days from the date of receipt of this notice as to why your license should be cancelled in the grounds specified above, failing which it will be presumed that you have nothing to say in this matter and the order will be passed Ex-Parte.

(Authorized Officer)

FORM 'D'
VISITOR REGISTER
[Under Rule 28)3)(ii)]

To be filled in by the participants/guest

Sl. No.	Name & Address of participants	No. of persons accompanying	Total charges received from the party	Signature Participants
1	2	3	4	5

(To be filled in by the licensee)

Receipt No. And date of Advance	final Bill No. and date	Total amount received	Receipt No. and date	Details of services of rendered	Signature Participants

FORM 'E'

Memo No ..... Date .....

SEIZURE MEMO
(Under rules 9 & 10)

(Under Section 9 of Sikkim Casinos Games (Control and Tax) Rules, 2007)

Name of the Accused ..... Sex and age of accused .....occupation.....
.....

Percentage .....

Address .....

DESCRIPTION OF MATERIALS SEIZURE

i. _____
_____
_____
_____

ii. _____
_____
_____
_____

iii. _____
_____
_____
_____

Name, address and Signature of at least two witnesses.

1.
2.

Date of seizure: Times of seizure: Place of seizure:
The above mention items have been seized from my custody on account of it not being legal.

Signature of Accused:

Name of Accused:

(Signature of Authorized Officer)